

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION**

Joseph Hayes, )  
vs. )  
Plaintiff, ) Civil Action No.: 5:13-cv-03245-JMC  
vs. )  
Marcia Fuller, SCDC Dietician; )  
John and Jane Does, Kershaw Cafeteria )  
Supervisors; Michael L. Fair, )  
Legislative Audit Council, et al., and )  
Boyd H. Parr, Director of Poultry Products )  
and Inspection, *in their official capacities* )  
*and in their individual or personal* )  
*capacities,* )  
Defendants )  
\_\_\_\_\_  
)

Plaintiff, proceeding *pro se*, filed this action seeking relief under 42 U.S.C. § 1983 for Defendants' alleged actions in violating his rights against cruel and unusual punishment under the Eighth Amendment of the United States Constitution.

This matter is before the court for review of the magistrate judge's Report and Recommendation (ECF No. 36), filed March 11, 2014, recommending that the district court dismiss the complaint in this case without prejudice and without service on Defendants because Plaintiff failed to fully exhaust his administrative remedies before proceeding with this action. (Id. at 4). The Report sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the magistrate judge's recommendation herein without a recitation.

The magistrate judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and

Local Civil Rule 73.02 for the District of South Carolina. The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the magistrate judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Petitioner was advised of his right to file objections to the Report (ECF No. 36 at 7). However, Petitioner filed no objections to the Report.

In the absence of objections to the magistrate judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

Therefore, after a thorough and careful review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law. The court **ADOPTS** the magistrate judge's Report and Recommendation (ECF No. 36). It is therefore **ORDERED** that Plaintiff's complaint is **DISMISSED** without prejudice.

**IT IS SO ORDERED.**



United States District Judge

April 18, 2014  
Greenville, South Carolina